

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UTHERVERSE GAMING, LLC,

Plaintiff,

v.

EPIC GAMES, INC.,

Defendant.

Case No. 2:21-cv-799-RSM-TLF

ORDER

The Court, having reviewed the Report and Recommendation of Judge Theresa L. Fricke, United States Magistrate Judge, objections to the report and recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) the Court adopts the Report and Recommendation;
- (2) Plaintiff's motion to exclude certain opinions and testimony of Benjamin Ellinger (Dkt. 294) is granted in part and denied in part;
- (3) The Court excludes Mr. Ellinger's invalidity report at ¶¶ 120, 126 (only the last bullet point), 137, 148, 150, 160, 164, 196, 230 (only the last bullet point), 239, 245, 248, 257, 258, 260, and 274 where he specifically relied on articles from Polygon.com, Engadget.com and Fandom.com and EPIC-00000468, EPIC-00000471, EPIC-00000567, EPIC-00000573, EPIC-00000607, EPIC-00027272, and EPIC-00027329.
- (4) In all other respects, the invalidity report of Mr. Ellinger is admissible under ER 702, 703.

1 Dated this ____ day of January, 2024

2
3
4 Ricardo S. Martinez
United States District Judge
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25